

Claimant originally suffered accidental injury while working for respondent on December 2, 1993. She injured her neck, both shoulders and both arms, while moving a resident at Winfield State Hospital.

The parties entered into an agreed award on July 5, 1995. In that award, claimant was granted a 60 percent permanent partial general body disability. As part of the agreed award, future medical benefits were left open upon proper application to and approval by the Director.

On November 12, 1999, claimant filed her "Application For Review And Modification/Application For Post Award Medical And Attorney Fees". Claimant requests, as a form of medical treatment, that she be provided with assistance in cleaning her house and doing her laundry. The Administrative Law Judge denied claimant's request, finding that claimant's requests were not for "medical treatment" under the Workers Compensation Act.

K.S.A. 44-510(a) mandates that:

It shall be the duty of the employer to provide the services of a health care provider, and such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, and apparatus, and transportation to and from the home of the injured employee to a place outside the community in which such employee resides, and within such community if the director in the director's discretion so orders, including transportation expenses computed in accordance with subsection (a) of K.S.A. 44-515 and amendments thereto, as may be reasonably necessary to cure and relieve the employee from the effects of the injury.

K.S.A. 44-510(a) does not include cleaning services as requested by claimant within the commonly understood definition of "medical treatment". Therefore, the Appeals Board finds that the denial of those requested services by the Administrative Law Judge was proper and should be affirmed.

Claimant's counsel submitted a request for 9.75 hours of attorney fees at the rate of \$125 per hour. The Appeals Board finds appropriate a fee of \$100 per hour. The 9.75 hours of time was itemized and is appropriate. The Appeals Board, therefore, orders claimant to be paid 9.75 hours of attorney fees at \$100 per hour totaling \$975. In addition, the claimant's attorney requests an additional 2 hours of attorney fees representing the time and labor spent preparing for and attending the argument before the Appeals Board. That request is also granted for an additional \$200, making a total attorney fee award of \$1,175 payable by respondent.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Jon L. Frobish dated February 10, 2000, should be, and

is hereby, affirmed in part in that claimant is denied the requested assistance to clean her house as it does not constitute "medical treatment" as contemplated by the Workers Compensation Act, but modified to award claimant's attorney \$1,175 in attorney fees representing 11.75 hours labor at \$100 per hour.

IT IS SO ORDERED.

Dated this ____ day of August 2000.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert R. Lee, Wichita, KS
Jeffery R. Brewer, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director